

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture (herein after referred to as "Department") is proposing to take the action described in the Informative Digest.

A public hearing is not scheduled for this proposal. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than **15 days prior to the close of the written comment period**. Any person interested may present statements or arguments in writing relevant to the action proposed to the person designated in this Notice as the contact person **on or before 5:00 p.m., June 6, 2005.**

Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the Department, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by sections 407, 19310, 19313.8, 19440, 19443, 19444, 19445, 19446 and 19447 of the Food and Agricultural Code, and to implement, interpret or make specific sections 19303, 19304, 19305, 19306, 19310.5, 19310.7, 19311, 19312, 19315 and 19316 of said Code, the Department is considering adding Article 49 to Subchapter 2, Chapter 4, Division 2, of Title 3 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law, Food and Agricultural Code sections 19300 through 19306, authorize the Department's Meat and Poultry Inspection Branch to inspect and investigate shipments and transactions of renderers, collection centers and transporters of inedible kitchen grease.

Food and Agricultural Code sections 19310 through 19317 sets forth the requirements for transporters of inedible kitchen grease that transport grease from restaurants and any food preparation, processing, or handling establishment or facility. However, no regulations exist for transporters of inedible kitchen grease pertaining to registration application, renewal, or removal and transport of interceptor waste from interceptors or grease traps.

This proposal establishes new sections 1190, 1190.1, 1190.2, 1190.3 and 1190.4 under new Article 49 of Subchapter 2, Chapter 4, Division 2 of Title 3 of the California Code of Regulations. This proposal is necessary to clarify the requirements for transporters of inedible kitchen grease pursuant to section 19310 of the Food and Agricultural Code. It codifies registration application and renewal requirements; establishes a new manifest reporting system and procedure; designates the authorized

facilities that may receive interceptor grease; sets forth reporting time frames, records retention, and violations.

FISCAL IMPACT STATEMENTS

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Department has made an initial determination that this proposed regulatory action would not result in any significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states. This proposal affects individuals and businesses engaged in the business of rendering, or operating a collection center, or transporting inedible kitchen grease. It imposes the following (1) paperwork, (2) record keeping, and (3) reporting requirements upon registered transporters of inedible kitchen grease:

(1) Paperwork: The registered transporter is to complete the manifest form (provided by the Department free of charge), and attach receipts showing the volume of waste removed from a food facility. The transporter is to provide a copy of the receipts to the owner/operator of the food facility. However, if the facility is closed, the transporter may mail the receipts within 24 hours of collection. The 24-hour requirement is necessary to ensure prompt delivery of the receipt to the facility where the grease waste was removed. This will provide assurance to the owner/operator that the grease waste was removed properly by the transporter. The only cost anticipated for this requirement would be mailing costs incurred by the transporter.

(2) Record keeping: The registered transporter is to retain the manifest forms and receipts for a period of one year from the date of collection for each pickup and delivery from all food facilities they are contracted or subcontracted with to remove grease waste. Manifest forms and receipts dated within the previous five days must be retained by the transporter where they can be made available immediately, upon request, to the Department or other authorized person or entity. Manifest forms and receipts more than five days old may be retrieved by the transporter within 24 hours and provided to the Department or other authorized person or entity making the request. The costs associated with the record keeping requirement cannot be determined as the volume of grease waste transported, bought, and sold determines the volume of record keeping and therefore, the costs. However, record keeping is a standard business practice for persons or businesses in the rendering industry. The manifest forms are provided by the Department free of charge, and

transporters are not required to mail or deliver the records to the Department, or any other authorized persons or entities, unless requested. The manifest forms are necessary for the Department to track the volume or quantity of grease waste removed, transported, and disposed. This will serve to ensure that the grease waste was removed and disposed of properly preventing blockages in sewer systems that could adversely affect human health and the environment.

(3) Reporting: The facility authorized to receive the grease waste is to contact the Department by telephone and facsimile, within 24 hours of receipt of the grease waste, only in cases where a registered transporter fails to provide a manifest with receipts indicating the quantity or volume of grease waste delivered to the authorized facility. The only costs anticipated for this reporting requirement upon facility owners/operators would be the cost of a long-distance call.

In making these determinations, the Department has not considered alternatives that would lessen any adverse economic impact on businesses and invites the public to submit such proposals during the written comment period. Submissions may include the following considerations:

- The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.
- The consolidation or simplification of compliance and reporting requirements for businesses.
- The use of performance standards rather than prescriptive standards.
- Exemption or partial exemption from the regulatory requirements for businesses.

Impact on Jobs/New Businesses: The Department has determined that this regulatory proposal will not have any impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in California. This proposal is intended to enhance consumer protection by instituting a tracking system to record the proper removal and disposal of inedible kitchen grease. The proper removal and disposal of grease waste is intended to prevent food grease from forming a blockage in sewer systems and corresponding sewage spills that could contaminate rivers, streams, and coastal waters thereby adversely affecting human health and the environment.

Cost Impacts on Private Persons or Entities: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. This proposal affects individuals and businesses engaged in the business of rendering, or operating a collection center, or transporting inedible kitchen grease. It imposes the following (1) paperwork, (2) record keeping, and (3) reporting requirements upon registered transporters of inedible kitchen grease:

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Effect on Housing Costs: None

Finding of Necessity for Report: The Department finds that it is necessary for the health, safety, and general welfare of the people of the state that this regulation requiring a report apply to businesses.

EFFECT ON SMALL BUSINESS

The Department has determined that the proposed regulations would affect small businesses.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative which it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing (if a hearing is requested from the public), or during the public comment period.

INITIAL STATEMENT OF REASONS

The Department has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing (if a hearing is requested) or during the public comment period upon request from the Department of Food and Agriculture, 1220 N Street, Room A-114, Sacramento, California 95814.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the persons named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact persons named below.

CONTACT PERSONS

Inquiries concerning the substance of the proposed regulations are to be addressed to the following:

Name:	Douglas Hepper, DVM
Address:	Department of Food and Agriculture Meat and Poultry Inspection Branch 1220 N Street, Room A-125 Sacramento, CA 95814
Telephone No.:	(916) 657-5295
Fax No.:	(916) 654-2608
E-mail address:	DHepper@cdfa.ca.gov

The backup contact person is:

Name: Nancy Grillo, Associate Analyst
Address: Department of Food and Agriculture
1220 N Street, Room A-116
Sacramento, CA 95814
Telephone No.: (916) 651-7280
Fax No.: (916) 653-4249
E-mail address: NGrillo@cdfa.ca.gov

Written comments, facsimiles or e-mails regarding this proposal are to be addressed to the following:

Name: Nancy Grillo, Associate Analyst
Address: Department of Food and Agriculture
1220 N Street, Room A-116
Sacramento, CA 95814
Telephone No.: (916) 651-7280
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Website Access:

Materials regarding this proposal can be found at <http://www.cdfa.ca.gov>